HIGH COURT OF UTTARANCHAL AT NAINIAL

Writ Petition No. 1598(S/S) of 2005

Ganesh Ram Kohli S/o Pratap Ram Kohli,
R/o village Nakote, Post Khirmade Gangolihat,
District Pithoragarh. ---------Petitioner.

Vs.

1. State of Uttaranchal through Secretary,
   Basic Education, Uttaranchal, Dehradun,
2. Director of Education (Basic), Uttaranchal, Dehradun,
3. Joint Director of Education, Kumoun Mandal, Nainital,
   Pithoragarh,
5. Addl. District Education Officer (Basic),
   Champawat. --------Respondents

Sri K.N. Joshi, learned counsel for the petitioner.
Learned Standing counsel for the State/respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri K.N. Joshi, learned counsel for the petitioner and learned Standing Counsel for the State/respondents.

The petitioner, who was Assistant Teacher in Kanya Purva Madhyamik Vidhyalaya, Kothera, Barakot, district Champawat, approached the Department requesting for his transfer from district Champawat to district Pithoragarh, accepting his request the Director of Education, Uttaranchal vide its order dated 22nd May 2004 transferred the petitioner from district Champawat to district Pithoragarh. In pursuance to the aforesaid transfer order, the petitioner was relieved from Champawat by the Addl. District Education Officer (Basic) Champawat vide its order dated 09.11.2004. On the very next day i.e. on 10.11.2004, the petitioner appeared before the Addl. District Education Officer (Basic), Pithoragarh and submitted his joining report but the petitioner was not permitted to join in

district Pithoragarh since then he has not been posted to any Institution consequently, he is not getting salary for about last 11 months. Therefore, the petitioner approached the Director of Education, Uttaranchal Govt., Dehradun by making representation dated 07.02.2005 & 04.07.2005 and requesting him to direct the Addl. District Education Officer (Basic) Pithoragarh to permit him to join in any Institution in the district of Pithoragarh however, neither the Addl. District Education Officer (Basic) Pithoragarh has passed any order nor the Director has passed any order on the representation of the petitioner. The petitioner has filed this writ petition with a prayer to issue a writ, order of direction in the nature of mandamus directing the respondent no.4/Addl. District Education officer (Basic) Pithoragarh to accept the joining of the petitioner in compliance of the transfer order dated 22.05.2004 and relieving order dated 09.11.2004. It is a matter of surprise that the petitioner is compelled to file writ petitions in the High Court for execution of orders passed by the Officers. The Addl. District Education Officer is the subordinate officer to the Director and is bound to obey the orders passed by his superior and the Director of Education is fully empowered to punish the subordinate officers, in case orders passed by him are not being obeyed by his subordinates.

The petitioner, who is a teacher of Junior High School, was transferred in the month of may 2004 from district Champawat and was also relieved from district Champawat in the month of November 2004. Almost a year has been elapsed but the petitioner has not been posted to any Institution in the district of Pithoragarh by the Add. District Education Officer (Basic), Pithoragarh.

In the circumstances, though the Court can direct the Add. District Education Officer (Basic) to permit the petitioner

to joint in the district of Pithoragarh but this Court is not inclined to pass any order for the reason that the Director has sufficient power to instruct his subordinates to obey the orders passed by the superior authorities and also has ample power to punish the responsible officers who are not obeying orders passed by the superior authority.

In the circumstances, it will be just and proper to direct the Director of Education, Uttaranchal Govt. Dehradun to pass appropriate order on the representations moved by the petitioner on 07.02.2005 and further on 04.07.2005 within a period of two weeks from the date of production of a certified copy of this order and may take appropriate action against the guilty officer for non compliance of the order passed by the Director of Education.

Since the petitioner has not been allotted any Institution by the Addl. District Education Officer (Basic), Pithoragarh and the petitioner is not getting salary for the last 11 months, the Director of Education shall also ensure that payment of salary be made to the petitioner within a stipulated period prescribed by him.

With these directions, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

October 28, 2005:
NCM: